

Town of North Andover
ZONING BOARD OF APPEALS

Albert P. Manzi III, Esq. Chairman
Ellen P. McIntyre, Vice-Chairman
Richard J. Byers, Esq. Clerk
D. Paul Koch Jr. Esq.
Allan Cuscia



Associate Member
Michael P. Liporto
Deney Morganthal
Doug Ludgin
Zoning Enforcement Officer
Gerald A. Brown

Approved
11 Feb 14

DRAFT MINUTES
Tuesday, DECEMBER 10th, 2013 at 7:00 PM
Town Hall 120 Main Street, North Andover, Massachusetts

Members present: Albert Manzi III Esq., Ellen McIntyre, Richard Byers, D. Paul Koch Jr and Allan Cuscia

Associate Member: Michael Liporto, Doug Ludgin and Deney Morganthal

Also in Attendance: Gerald Brown

Manzi called the meeting to order at 7:00

Pledge of Allegiance

Acceptance of Minutes for November 12, 2013

McIntyre made the motion to approve the Minutes

Byers second the motion.

Those voting in favor to approve the minutes were Manzi, McIntyre, Byers, Koch, Cuscia, Liporto, Morganthal and Ludgin.

Committee Reports

Merrimack Valley Planning Commission and Committee Housing Partnership

Byers spoke about the Citizen Training Programs offered by the MVPC and encouraged the Board to consider taking this program. Byers stated some Board Members did take advantage of this program last year.

Byers continued on with speaking of the MVPC and stated the North Andover Selectmen were interested in conducting a safety audit along Route 114 from Waverley Road to Stop & Shop, making it pedestrian safe and friendly. It will also be good for the businesses along the area, since they get a lot of foot traffic, including the students from Merrimack College.

Byers then also spoke of Route 95 and also of a specific bridge.

McIntyre had nothing new to report regarding this committee.

Continued Public Hearing

Variance R-3 Petitioner Merrimack College Volpe Athletic Center (Map 25, Parcel 21).

Manzi spoke of the last meeting regarding Merrimack College and their Variance regarding their request for two internally illuminated signs at the Volpe Athletic Center. Manzi spoke of the letter that was submitted from Merrimack College, requesting to withdraw their petition, without prejudice, dated

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November 7, 2013. Manzi also went on to explain the Dover Amendment that Merrimack referenced, and if and how it applied to their petition.

Manzi had discussed these topics and concerns with Town Counsel, Town Manager, the Zoning Enforcement Officer and the Community Development Director.
Manzi asked if anyone from Merrimack College was here, no one spoke up.

The Board discussed and questioned in detail the petition, the Dover Amendment and the letter to withdraw without prejudice sent from Merrimack College.

Manzi strongly suggested to the Board that a vote should be taken at tonight's meeting.

McIntyre made a motion to Grant the Withdrawal without Prejudice as mentioned in a letter dated November 7th 2013 from Merrimack College

Liporto second the motion

No one was in favor to grant the Withdrawal without Prejudice

Those that were not in favor to grant the Withdrawal without Prejudice Koch, Liporto, Cuscia, McIntyre, and Manzi

0-5 denied (cannot Withdraw without Prejudice)

McIntyre made a motion to close the public hearing.

Koch Second the motion

All were in favor to close this public hearing for Merrimack College Koch, Liporto, Cuscia, McIntyre, and Manzi.

5-0

McIntyre made a motion to Grant Merrimack College the Variance for the two internally illuminated signs located at the Volpe Athletic Center. McIntyre referenced all the various plans, plot plans, maps, and documents and associated dates that were in front of her. McIntyre then read the following, under the findings that the Board recognizes that in these particular circumstances, Merrimack College is an educational use as related to the so-called "Dover Amendment" contained in Mass. General Laws Chapter 40A, Section 3. The reasonableness of the zoning requirement in question as related to the Dover Amendment depends "on the particular facts of each case." See Martin v. The Corporation of the Presiding Bishops of the Church of Jesus Christ of Latter-Day Saints, 434 Mass. 141, 150 (2001). The particular facts of this case are unique. The two signs in question have already been installed on Merrimack College's newly expanded hockey and sports medicine facilities at the Volpe Center. The variance request is to the internal illumination prohibition in Section 6.5.1 of the Zoning Bylaw for those existing signs.

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The signs are not adjacent to a public way, highway or private way. They face inward toward the campus and parking lot. Their illumination would not cause a distraction or annoyance to abutters or to persons operating motor vehicles on or off campus. There is no apparent public safety hazard caused by the illumination of the signs. The Board has received no opposition to this variance application. Therefore, in consideration of the particular factual circumstances here, the Board grants the variance from Section 6.5.1 for the two existing signs on the Volpe Center.

Cuscia second the motion

Those voting in favor to Grant the Variance, Koch, Liporto, Cuscia and Manzi

Not in favor to grant the Variance; McIntyre.

4-1 Approved

Manzi wanted it to be noted for the record that he reluctantly voted in favor of this petition

New Public Hearing

Special Permit R-2 137 Barker Street (Map 35, Parcel 99) North Andover, MA. 01845

Joshua Moughan owner of the property at 137 Barker Street is requesting a Special Permit for a Family Suite/In Law apartment for his Mother-in Law, Janet Hopkins

Brown spoke up and stated that he supported this petition for the Special Permit. Brown stated that he mostly dealt with the contractor and that they did everything correct to satisfy the Family Suite to the Building Code.

Manzi asked if there were changing the Footprint of the property. Moughan said no.

Manzi explained to Moughan the rules of a Family Suite, and how it works.

Manzi asked if the Board had any questions or if any abutters were here, and would like to speak for or against. No one spoke up.

McIntyre praised the applicant for having everything ready for the Board, with regards to their petition.

Byers made a motion to close the hearing

Koch second the motion

All in favor to close the hearing, Manzi, McIntyre, Byers, Koch and Cuscia

5-0

Byers made a motion to grant the Special Permit at **137 Barker Street (Map 35, Parcel 99)**, from 4.121.17 of the Zoning Bylaws to Build a Family Suite in the R-2 Zoning District.

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Byers referenced all the drawings, plans, plot plans, pages and maps that were in front of him along with associated dates.

Koch second the motion

All in favor to grant the Special Permit were Byers, Koch, Cuscia, McIntyre and Manzi

5-0

Miscellaneous Correspondence

An Open Meeting Law Guide from the office of the Attorney General, Martha Coakley dated August 1st 2013 was included in the Board's packets for them to review.

Also two letters from Elizabeth Palma Diaz, Program Manager for CHAPA were submitted into the Board's packets, both letters were dated November 20, 2013

Adjournment: 7:40

Byers made a motion to adjourn the meeting

Koch second the motion

All were in favor to adjourn the meeting; Byers, McIntyre, Koch, Cuscia Manzi, Liporto, Morganthal and Ludgin.